

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA OF
NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
v.) CASE NO. 2:06-cr-215-MEF
)
ALBERTO VILLAREAL, *et al.*)

ORDER

The defendants, Alberto Villareal and Harry Edward Jones, III, filed Unopposed Motions to Continue Trial (Doc. #121 & #125). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motions state that a continuance is necessary, as to Mr. Villareal, for the purpose of negotiating final plea terms. All other counsel, including government counsel, indicated at the pretrial conference that there was no opposition to a continuance. Consequently, the

court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendants' motions are GRANTED;
2. That the trial of this case is continued from the March 12, 2007 trial term to the July 9, 2007 trial term.
3. That the Magistrate Judge conduct a pretrial conference prior to the July 9, 2007 trial term.

DONE this the 2nd day of March, 2007.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE